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SUMMARY RECORD OF THE 37th MEETING

Chairman: Mr. MADEJ (Poland)
(Vice-Chairman)

CONTENTS

AGENDA ITEM 136: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued)

AGENDA ITEM 138: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SEVENTH SESSION (continued)

AGENDA ITEM 133: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued)

AGENDA ITEM 143: CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY (continued)

ANNOUNCEMENT CONCERNING SPONSORSHIP OF DRAFT RESOLUTIONS

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In the absence of Mr. Lamptey (Ghana), Mr. Madej (Poland), Vice-Chairman, took the Chair.

The meeting was called to order at 3.30 p.m.

AGENDA ITEM 136: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/49/323 and Add.1 and 2; A/C.6/49/L.10)

1. Ms. ARYSTANBEKOVA (Kazakhstan) said that the aims of the United Nations Decade of International Law were of special importance to Kazakhstan which had been striving since independence to develop international legislation in accordance with the principles of international law. Its Constitution set forth the need to build a State based on the supremacy of law and the principle of separation of powers. Article 3 of the Constitution stressed that international legal documents concerning the rights and freedoms of the individual and the citizen which were recognized in Kazakhstan, prevailed over its domestic laws.

2. Kazakhstan's efforts to develop a solid legal basis for international cooperation was also manifested in its increasingly active participation in multilateral international treaties, including the Vienna Conventions on the law of international treaties and on diplomatic and consular relations, and the four Geneva Conventions of 1949 and their Additional Protocols. As a non-nuclear Power, Kazakhstan was also a party to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, to the 1990 Treaty on Conventional Armed Forces in Europe and the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and to various conventions concerning terrorism and the environment.

3. Her delegation supported the programme of activities for the third term of the Decade proposed by the Working Group, which contained many recommendations of special interest to Kazakhstan, which still lacked experience in matters of international law. Of particular interest was the recommendation to States and international organizations to provide assistance to other States in order to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties. The scope for such cooperation was wide, covering such fields as protection of the environment, development of transport systems, trafficking in narcotic drugs and international terrorism.

4. Kazakhstan's environmental difficulties were well known, since the problems of the Aral Sea and the former nuclear testing site in the Semipalatinsk region had taken on the dimensions of global environmental disasters. The solution of those problems required not only assistance from the United Nations and its specialized agencies, but, above all, the establishment of a solid legal basis for long-term international cooperation. In that connection, her delegation reaffirmed its interest in the programmes of the United Nations Environment Programme (UNEP) aimed at strengthening environmental legislation, and hoped that UNEP would consider the formulation of legal bases for international

cooperation with a view to solving the problems of the Aral Sea. Her delegation also wished to draw attention to the international project of the Caspian Sea States aimed at safeguarding the biological diversity of the Caspian Sea and its shores, which had been submitted to UNEP, UNDP and the World Bank with a view to consideration of joint measures for its implementation. It must be stressed that the problems of safeguarding and protecting the environment were no longer problems confined to individual countries or regions, but had become the concern of the population of the planet as a whole.

5. Integration in the world economy and development of transport systems was another field of international cooperation of special concern to Kazakhstan. The newly independent land-locked States of Central Asia were not yet parties to international conventions on that question, and were only now beginning to negotiate bilateral and multilateral agreements with their neighbours concerning transport matters. As former members of the Soviet Union, they lacked experience of international negotiations: the problem of concluding agreements in that area was one that must thus be addressed. In that context, her delegation noted the activities of the United Nations Conference on Trade and Development (UNCTAD) in providing assistance to the land-locked countries of Africa. The experience of UNCTAD in that field could be extremely useful to the land-locked States of Central Asia.

6. The establishment of a State where the rule of law prevailed, its democratic development and its successful integration in the international community were impossible without a knowledge of the underlying principles and rules of international law: hence the importance of the teaching, study, dissemination and broader recognition of international law. Courses in international law were compulsory in the legal faculties of all Kazahk universities. A greater awareness of internationcl law issues would enable Kazakhstan to participate more fully in seminars, conferences and symposia convened in the context of the Decade. Finally, in striving to perfect its national legislation in accordance with international law, Kazakhstan welcomed the United Nations Congress on International Law, to be held in 1995, which would provide a unique opportunity for representatives of all legal systems to exchange views about prospects and problems regarding the development of international law. The Congress would make it possible to elaborate general approaches to resolving the most urgent of those questions.

7. Mr. u hla MAUNG (Myanmar) noted with satisfaction that at the mid-point of the Decade, important steps had been taken by States and international organizations to achieve its purposes. Important treaties had been concluded, including the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.

8. As a founding member of the Asian-African Legal Consultative Committee, Myanmar fully supported the goals of the Decade. Only in an atmosphere where the rule of law prevailed could there be international peace and security, a

sine qua non for the development of countries. If war was to be avoided, there must be respect for sovereignty and territorial integrity, non-aggression, non-interference in the internal affairs of States, equality and peaceful coexistence.

9. His country had consistently supported efforts to promote the rule of law in international relations and, in the past four years, had signed or acceded to a number of multilateral treaties.

10. Lastly, he reaffirmed his country's commitment to encourage the teaching, study, dissemination and wider appreciation of international law. In addition to national training courses for legal professionals, the training of military personnel had been carried out with the cooperation of the International Committee of the Red Cross. His delegation looked forward to the United Nations Congress on Public International Law to be held in 1995.

11. Ms. SAEKI (Japan), speaking in exercise of the right of reply, said that the allegations made by the representative of the Democratic People's Republic of Korea in his statement on 16 November 1994 were groundless, and that his statement had been a malicious exercise in anti-Japanese propaganda. Japan was determined to conduct a proactive foreign policy that would enable it to contribute to the future well-being of humankind. Remorseful at the suffering inflicted on its neighbouring countries by the Second World War, it had on many occasions voiced its determination to see that such a tragedy was never repeated, and was committed to establishing relations with the countries of Asia and the Pacific based on mutual trust and confidence. Furthermore, it was not the Japanese Government's understanding that the 1905 treaty mentioned in the statement by the representative of the Democratic People's Republic of Korea had been ineffective under the international law prevailing at that time.

12. Mr. KIM Jae Hon (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that the statement just made by the representative of Japan revealed the Japanese delegation's lack of knowledge of the history of the illegal occupation of the whole of Korea by Japan. It was exactly 89 years ago that the Ulsa Five-Point Treaty had been fabricated by Japan, on 17 November 1905. Before commenting on the unsuccessful attempt by the Japanese authorities to deny the historical facts, he wished to read out the text of a statement issued the previous day by the Foreign Ministry of the Democratic People's Republic of Korea, denouncing the Japanese authorities for their continuing refusal to admit the illegality and invalidity of that Treaty.

13. According to that statement, the Ulsa Five-Point Treaty was a fake document which did not conform to the requirements that would enable it to be regarded as a pact between countries. As could be seen from the original text of the so-called treaty, discovered two years previously, the document had not been endorsed or signed by the then Emperor Kojong, and had no seal of the State and no title. It had never been recognized by the Emperor. As acknowledged by a Japanese minister at the time, the treaty had been forcibly imposed by the Japanese imperialists with the backing of their armed forces. The treaty had no

legal validity either under the domestic law of the former Korea or under the international law prevailing in the early years of the twentieth century.

14. Nevertheless, the Japanese authorities shamelessly and brazenly refused to admit the crimes committed by Japanese imperialists in the past, thereby demonstrating that they still harboured wild and aggressive ambitions to dominate the Asian countries. The Government of the Democratic People's Republic of Korea and the Korean people bitterly denounced that unreasonable attitude. The key issue with regard to those treaties was not whether their illegality and invalidity were acknowledged, but whether the Japanese Government was ready sincerely to atone for its past crimes against Korea and to break with its militarist past.

15. Article 9 of the 1899 National Law of Korea stipulated that the Emperor should directly conclude all treaties. Widely recognized provisions of international law stipulated that a treaty could be enforced only after the endorsement of the Emperor, and that it was void unless ratified by the State. It was well known that Emperor Kojong had not recognized or ratified the Ulsa treaty. In a personal letter addressed to the heads of State of the United States, Tsarist Russia, Germany and France in January 1907, he had declared that from the outset he had not recognized the treaty concluded between a Japanese envoy and Pak Je Sun on 17 November 1905, and that the seal of the State had not been affixed to it; that he had opposed the arbitrary promulgation of the treaty by Japan; and that he had never transferred the independent imperial right to another country. That declaration clearly proved that Emperor Kojung had not signed or put the seal of the State to the so-called treaty document. Historians in his country had recently discovered new data which proved even more conclusively that the old treaties, including the Ulsa Five-Point Treaty legalizing the Japanese imperialists' occupation of Korea, were fake documents. In the southern part of Korea, too, historians had unearthed original documents in the Royal Archives proving that the old treaties had been forged. It was thus a shameless act on the part of the Japanese authorities to try to justify Japan's past history of aggression by claiming that the old treaties had been concluded legally. His delegation urged Japan, in its own interests, to make a clean breast of its past wrongdoings against humanity as soon as possible.

AGENDA ITEM 138: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SEVENTH SESSION (continued) (A/C.6/49/L.11 and L.13)

Draft resolution A/C.6/49/L.11 (continued)

16. The CHAIRMAN said that Guatemala had joined the sponsors of the draft resolution.

17. Draft resolution A/C.6/49/L.11 was adopted.

Draft resolution A/C.6/49/L.13 (continued)

18. The CHAIRMAN said that Guatemala and Turkey had joined the sponsors of the draft resolution.

19. Draft resolution A/C.6/49/L.13 was adopted.

20. Mr. SHESTAKOV (Russian Federation), explaining his country's position on the draft resolution just adopted, said that the work of the United Nations Commission on International Trade Law (UNCITRAL) had, during the 27 years of the Commission's existence, been of real practical value to the development of the norms of international trade law. Its work was of benefit to all countries, including those whose economies were in transition; for that reason, his delegation had been able to join the consensus on the draft resolution. Nevertheless, his delegation had refrained from becoming a sponsor of the draft resolution because it had supported the retention of the preambular paragraph referring to the importance of the Commission's work to the aforesaid countries, as discussed during informal consultations. It was to be hoped that the matter could be taken up again at the next session of the General Assembly.

AGENDA ITEM 133: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued) (A/C.6/49/L.7)

Draft decision A/C.6/49/L.7 (continued)

21. Draft decision A/C.6/49/L.7 was adopted.

22. Mr. NATHAN (Israel), explaining his delegation's position on the draft decision just adopted, said that the matter to which it referred had been taken up in the context of the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. Article 89 of that Convention provided that the Convention should enter into force following the deposit of the thirty-fifth instrument of ratification or accession by States entitled to do that. However, to date, only 29 such instruments had been received according to the United Nations Treaty Section. To call upon States to ratify a Convention which had not yet entered into force appeared to be of doubtful practical value. Accordingly, had a vote been taken on the draft decision, his delegation would have voted against it.

AGENDA ITEM 143: CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY (continued) (A/C.6/49/L.14)

Draft resolution A/C.6/49/L.14

23. Mr. CALERO RODRIGUES (Brazil), introducing the draft resolution, said that, in paragraph 1, the General Assembly decided to accept the recommendation of the International Law Commission to convene an international conference of plenipotentiaries to consider the articles on jurisdictional immunities of States and their property and to conclude a convention on the subject.

Paragraph 2 took into account the concern expressed by a number of delegations that there should be adequate preparation for the conference by providing that the date and place of the conference should be determined at the fifty-first session of the Assembly.

24. The sponsors believed that the draft resolution offered a solution acceptable to all delegations. While differences persisted with regard to the agenda for the conference, it would be unfair to delay acceptance of the recommendation of the International Law Commission that the conference should be convened, since most delegations agreed on the need for a convention in that area.

25. Mr. MAIGA (Mali) said that while his delegation agreed that the date and place of the Conference should be determined in 1996, it believed that the Working Group should be reconvened in 1995 to reconcile differences regarding the provisions of the future convention so that another year would not be lost.

ANNOUNCEMENT CONCERNING SPONSORSHIP OF DRAFT RESOLUTIONS

26. The CHAIRMAN said that Austria had joined the sponsors of draft resolution A/C.6/49/L.12.

The meeting rose at 4.20 p.m.